

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MELISSA KAYE,

Plaintiff,

- against -

NEW YORK CITY HEALTH AND HOSPITALS  
CORPORATION; ELIZABETH FORD; PATRICIA  
YANG; ABHISHEK JAIN; and JONATHAN  
WANGEL (said names being fictitious, the persons  
intended being those who aided and abetted the  
unlawful conduct of the named Defendants),

Defendants.  
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**DECLARATION OF  
DONNA A. CANFIELD  
IN SUPPORT OF  
DEFENDANTS'  
MOTION FOR  
SUMMARY  
JUDGMENT**

18-cv-12137 (JPC)(JLC)

**DONNA A. CANFIELD** declares, pursuant to 28 U.S.C. § 1746 and subject to  
the penalties of perjury, that the following is true and correct:

1. I am an Assistant Corporation Counsel in the office of Sylvia O. Hinds-Radix,  
Corporation Counsel of the City of New York, attorneys for the Defendants in the above-  
captioned action.

2. I submit this declaration in support of the Defendants' Motion for Summary  
Judgment pursuant to Local Rule 56.1 of the Federal Rules of Civil Procedure.

3. Annexed to this declaration are Exhibits "A" to "ZZZZZ" are documents  
maintained in the ordinary course of defendants' business, public records, excerpts from the  
transcripts of the depositions of Plaintiff Melissa Kaye, Defendants Abhishek Jain, Elizabeth  
Ford, Patricia Yang, and Jonathan Wangel, as well as the deposition of non-party witnesses  
Barry Winkler and Ross MacDonald. Copies of these documents and excerpts are as follows:

A. Amended Complaint, filed May 3, 2019 (hereinafter, "Compl."),  
annexed as Exhibit "A;"

- B. Deposition of Melissa Kaye, dated November 15, 2021, annexed as Exhibit “B;”
- C. Deposition of Abhishek Jain, M.D. dated October 4, 2021, annexed as Exhibit “C;”
- D. Deposition of Dr. Elizabeth Ford, dated September 27, 2021, annexed as Exhibit “D;”
- E. Curriculum Vitae Stephen J. Ciric, M.D annexed as Exhibit “E;”
- F. “Human Resources Personnel Requisition Form Promotion,” annexed as Exhibit “F;”
- G. Clinicians Unit Collective Bargaining Agreement between the City of New York, the Health and Hospitals Corporation, and the Doctors Council, annexed as Exhibit “G;”
- H. Deposition of Barry Winkler, dated October 6, 2021, annexed as Exhibit “H;”
- I. Forensic Psychiatry Evaluation Court Clinics (“FPECC”) Clinic Case Listing Output 10/13/2021, annexed as Exhibit “I;”
- J. Email thread, “Big picture question,” dated October 16, 2018, annexed as Exhibit “J;”
- K. “RE: Updated FPECC Org Chart,” dated February 7, 2018, annexed as Exhibit “K;”
- L. New York City Health and Hospitals Corporation Resignation Form,” annexed as Exhibit “L;”

- M. Deposition of Patricia Yang, dated February 28, 2018, annexed as Exhibit “M;”
- N. Email Correspondence, dated December 8, 2017, annexed as Exhibit “N;”
- O. Deposition of Ross MacDonald, dated November 12, 2021, annexed as Exhibit “O;”
- P. Deposition of Jonathan Wangel, dated September 30, 2021, annexed as Exhibit “P;”
- Q. Email from Elizabeth Ford to Jeremy Colley, dated January 18, 2021 and Email, dated March 27, 2018, from CHS Communications, both annexed as Exhibit “Q;”
- R. Email thread, dated January 18, 2021 and January 22, 2018, annexed as Exhibit “R.”
- S. Email, from plaintiff to Jeffery Bloom, dated February 12, 2018, annexed as Exhibit “S;”
- T. Email, “Fwd: Judge Torres wants to hold us in contempt?” dated February 1, 2018, annexed as Exhibit “T;”
- U. Letter, dated February 20, 2018 to Honorable Judith Lieb, Bronx County Supreme Court, Criminal Division, from Salvatore Russo, Senior Vice President and General Counsel, Legal Affairs, annexed as Exhibit “U;”
- V. Email, dated March 12, 2018, from plaintiff to Dr. Jeremy Colley, annexed as Exhibit “V;”

- W. Email, dated March 13, 2018 from plaintiff to Dr. Jeremy Colley, annexed as Exhibit “W;”
- X. Email, dated March 23, 2018 from Deirdre Newton to plaintiff, annexed as Exhibit “X;”
- Y. Email, dated March 23, 2018 from plaintiff, annexed as Exhibit “Y;”
- Z. Email correspondence dated December 8, 2017, between Jeremy Colley and plaintiff, annexed as Exhibit “Z;”
- AA. Email correspondence between Elizabeth Ford and plaintiff, dated January 5, 2018; email correspondence between Elizabeth Ford and Patricia Yang, dated January 5, 2018, both annexed as Exhibit “AA;”
- BB. Email correspondence between Patricia Yang and William Hicks, dated January 29, 2018 and January 31, 2018, annexed as Exhibit “BB;”
- CC. Email, dated March 27, 2018, from CHS Communications, annexed as Exhibit “CC;”
- DD. Email, dated February 23, 2018, from plaintiff to Marianne Badaracco, annexed as Exhibit “DD;”
- EE. Email thread, “Re: Psychiatry jobs Bellevue,” dated May 25, 2018; Email, “seeking employment at Bellevue on HHC line,” dated May 30, 2018; Email, “Job on 19,” dated June 1, 2018; Email thread, entitled “19 job questions,” dated June 5, 2018;

- Email thread, “Re: Updates for Dr. Kaye (Manhattan), dated September 11, 2018; Email thread, “RE: Retention Bonus,” dated October 6, 2018; Email thread, “RE: Looking for HHC line,” dated October 23-24, 2018; Email, “Employment Sought,” dated December 11, 2018, all annexed as Exhibit “EE;”
- FF. Email, “MK,” dated January 22, 2019, annexed as Exhibit “FF;”
- GG. Email, dated March 27, 2018, from Dr. Elizabeth Ford to Dr. Elizabeth Owen, plaintiff, Dr. Daniel Mundy, Dr. Barry Winkler, and Dr. Abhishek Jain, annexed as Exhibit “GG;”
- HH. Email, entitled, “RE” Bellevue 730 personnel,” dated April 25, 2018, from Aaron Anderson to Patricia Yang and Sara Gillen, and email, entitled “RE: Pay Equity for Court Clinic Medical Directors,” dated May 3, 2018, from Sara Gillen to Dr. Yang Jonathan Wangel, Ross MacDonald, Elizabeth Ford, and Jessica Laboy, annexed as Exhibit “HH;”
- II. Email, entitled, “RE: Bellevue 730 personnel,” dated April 25, 2018, from Aaron Anderson to Patricia Yang and Sara Gillen, and email, entitled “RE: Pay Equity for Court Clinic Medical Directors,” dated May 3, 2018, from Sara Gillen to Dr. Yang, Jonathan Wangel, Ross MacDonald, Elizabeth Ford, and Jessica Laboy, annexed as Exhibit “II;”
- JJ. Email, entitled “AFR and Backfill for Liz Owen,” dated February 6, 2018, from Elizabeth Ford to CHS Personnel Actions and Ross

- MacDonald, and email “RE” Bellevue 730 personnel,” dated April 25, 2018, from Aaron Anderson to Patricia Yang and Sara Gillen, annexed as Exhibit “JJ;”
- KK. “Meeting Notification,” for April 19, 2018, and email, dated April 19, 2018, annexed as Exhibit “KK;”
- LL. Email, dated April 24, 2018 from plaintiff to Dr. Ford, annexed as Exhibit “LL;”
- MM. Email, entitled “Melissa Kaye BHC to CHS line change,” dated April 30, 2018, annexed as Exhibit “MM;”
- NN. Email, entitled Pay Equity for Court Clinic Medical Directors,” dated May 3, 2018, annexed as Exhibit “NN;”
- OO. Email thread, entitled “FW: Pay Equity for Court Clinic Medical Directors,” dated May 3, 2018, between Drs. Yang, MacDonald, Ford, Sara Gillen, Jessica Laboy, and Jonathan Wangel, annexed as Exhibit “OO;”
- PP. Email, “FPECC Org Chart,” dated March 26, 2018, annexed as Exhibit “PP;”
- QQ. Email, entitled “RE: Pay Equity for Court Clinic Medical Directors,” dated May 3, 2018, annexed as Exhibit “QQ;”
- RR. Email, entitled “Pay Equity Concern,” dated May 3, 2018, annexed as Exhibit “RR;”
- SS. Email, “Jonathan,” dated June 21, 2018 annexed as Exhibit “SS;”

- TT. Email, “Dr. Melissa Kaye,” dated July 6, 2018, annexed as Exhibit “TT;”
- UU. Email, “RE: Titles,” dated May 11, 2018, annexed as Exhibit “UU;”
- VV. Email, “Re: Business Cards,” dated May 25, 2018, annexed as Exhibit “VV;”
- WW. Email, “Re: Very basic question,” dated May 29, 2018, annexed as Exhibit “WW;”
- XX. Deposition of Melissa Kaye, dated January 25, 2022, annexed as Exhibit “XX;”
- YY. Email, “Re: CHS draft policies circulated?” dated January 11, 2019, annexed as Exhibit “YY;”
- ZZ. Email, “Re: Kaye, M Schedule,” dated July 11, 2018, annexed as Exhibit “ZZ;”
- AAA. Email, “Re: FPECC Question,” dated July 11, 2018, annexed as Exhibit “AAA;”
- BBB. Email, “Fw: Following up,” dated July 12, 2018, annexed as Exhibit “BBB;”
- CCC. Email, “Fw: Kaye, M Schedule,” dated July 13, 2018, annexed as Exhibit “CCC;”
- DDD. Email, “Subject: Direct Deposit,” dated July 10, 2018, and Email, “Out sick 7/12,” dated July 12, 2018, annexed as Exhibit “DDD;”

EEE. Email, “re: Dr. Kaye time off,” dated July 23, 2018, annexed as Exhibit “EEE;”

FFF. Email, “FW: 30 minute MD lunch,” dated July 24, 2018, annexed as Exhibit “FFF;”

GGG. Emails, “Touching Base,” dated August 6 2018, and “Out Sick today,” dated August 9, 2018, and “Out Sick today,” dated August 10, 2018, annexed as Exhibit “GGG;”

HHH. Email, “Pay error,” dated August 13, 2018, annexed as Exhibit “HHH;”

III. Email, “Meal Code,” dated August 13, 2018, annexed as Exhibit “III;”

JJJ. Email, “Fwd: 1-Hour Lunch,” dated August 15, 2018, annexed as Exhibit “JJJ;”

KKK. Email, “FW: Educational Leave 9/24/18,” dated August 28, 2018, annexed as Exhibit “KKK;”

LLL. Email thread, “Re: 9/24 Time sheet error,” dated October 5, 2018, annexed as Exhibit “LLL;”

MMM. Email thread, “Re: Educational Leave 9/24/18,” dated October 5, 2018, annexed as Exhibit “MMM;”

NNN. Email thread, “Re: Educational Leave 9/24/18,” dated October 9, 2018, annexed as Exhibit “NNN;”

OOO. Email, “Fw: Educational Leave for Board Certification Exam,” dated October 31, 2018, annexed as Exhibit “OOO;”



PPP. Email thread, “Re: Docked Educational Leave,” between December 14, 2018 and January 15, 2019, annexed as Exhibit “PPP;”

QQQ. Email thread, “Fwd: Annual Health Assessment Review,” dated September 6-13, 2018, annexed as Exhibit “QQQ;”

RRR. Email, “Fw: Expiring License/Certification,” dated December 3, 2018, annexed as Exhibit “RRR;”

SSS. Email thread, “Fwd: Melissa Kaye FMLA/Intermittent – To care for ill family member leave approval,” dated February 15, 2019 and email, “Re: simmering about to boil over,” dated February 15, 2019, annexed as Exhibit “SSS;”

TTT. Email, “RE: PeopleSoft – Dr. Kaye assignment,” dated June 3-10, 2019, annexed as Exhibit “TTT;”

UUU. Email, “Re: Docs Council Lump Sum,” dated September 17-18, 2018, annexed as Exhibit “UUU;”

VVV. Email, including attachments, entitled, “Docs Council Retention Bonus,” dated September 26, 2018, and Email, “can you help us help ourselves?” dated September 26, 2018, annexed as Exhibit “VVV;”

WWW. Email, “FW: can you help us help ourselves?” dated September 26, 2018, annexed as Exhibit “WWW;”

XXX. Email thread, “Re: Total Work Hours,” dated September 26 and September 27, 2018, annexed as Exhibit “XXX;”

YYY. Email, “RE: Doctors Council Retention payment list – Revised 9.27.18,” dated September 27, 2017, annexed as Exhibit “YYY;”

ZZZ. Email thread, “RE: FTE error causing bonus retention error,” dated October 31, 2018, annexed as Exhibit “ZZZ;”

AAAA. Email thread, “RE: some retention bonus issues,” dated November 13-14, 2018, annexed as Exhibit “AAAA;”

BBBB. Email thread, “Re: Total Work Hours – KAYE RETENTION PAYMENT,” between September 2018 and December 19, 2018, [NYC\_001028] and Email, “Dr. Kaye,” dated December 19, 2018, annexed as Exhibit “BBBB;”

CCCC. Notice of Charge of Discrimination, dated May 31, 2018, annexed as Exhibit “CCCC;”

DDDD. Supplemental EEOC Charge, received on September 11, 2018, annexed as Exhibit “DDDD;”

EEEE. Email, “FW: Melissa Kaye,” dated September 18, 2018, annexed as Exhibit “EEEE;”

FFFF. Email, “Fwd: Meeting 12/4,” dated November 28-29, 2018 and Email, “FW: Meeting,” dated November 30, 2019, annexed as Exhibit “FFFF;”

GGGG. “Kronos Accounts for FPECC Staff at Manhattan and Bronx, dated June 28, 2018, annexed as Exhibit “GGGG;”

HHHH. Email thread, “Re: Kronos not working in the Bronx,” dated July 3-5, 2018, annexed as Exhibit “HHHH;”

- IIII. Email, “RE: Kronos not accepting time input for Monday 10/29/18,” dated November 5, 2018, annexed as Exhibit “IIII;”
- JJJJ. Email, “RE: Kronos Access Denied: Time for this week, Sick Day Tomorrow: 2/13/ double docked,” dated February 25, 2019; email, “Re: FPECC Kronos Assignment,” dated February 25, 2019; email, “FMLA,” dated February 25, 2019; email, “RE: URGENT CORRECTION NEEDED”: FMLA TIME ERROR pay week 2/25-3/1,” dated February 25-26, 2019, annexed as Exhibit “JJJJ;”
- KKKK. Email, “Re: CHS draft policies circulated?” dated January 11, 2019, and email, “FW: Draft – Psychological Testing Policy,” dated January 11, 2019, both annexed as Exhibit “KKKK;”
- LLLL. Email, “RE: Email Access to Active Employee,” dated January 11, 2019, annexed as Exhibit “LLLL;”
- MMMM. Email thread, “FMLA,” dated July 6, 2018, annexed as Exhibit “MMMM;”
- NNNN. Email thread, “RE: FMLA,” dated October 5, 2018, annexed as Exhibit “NNNN;”
- OOOO. Email, “RE: FMLA paperwork Confidential Information,” dated October 15, 2018, annexed as Exhibit “OOOO;”
- PPPP. Email thread, “RE: KayeMFLMA8Oct18,” dated October 17, 2018, annexed as Exhibit “PPPP;”

- QQQQ. Email, “Melissa Kaye FMLA/To care for ill family member leave approval – retro,” dated October 30, 2018, annexed as Exhibit “QQQQ;”
- RRRR. Email thread, “Melissa Kaye FMLA/To care for ill family member leave approval – retro,” dated November 8, 14, 2018, annexed as Exhibit “RRRR;”
- SSSS. Email thread, “RE: Updated FMLA,” dated January 18 – February 15, 2019, and Email, “Melissa Kaye FMLA/To care for ill family member leave approval,” dated February 15, 2019, annexed as Exhibit “SSSS;”
- TTTT. Email thread, “RE: FMLA annual schedule and balance,” between May 2018 and July 2019, annexed as Exhibit “TTTT;”
- UUUU. Email, “Fw: Reasonable Accommodations Request,” dated October 25, 2018, annexed as Exhibit “UUUU;”
- VVVV. Email thread, “FW: CONFIDENTIAL – REASONABLE ACCOMMODATION REQUEST FORM,” dated October 30, 2018, annexed as Exhibit “VVVV;”
- WWW. Email, “RE: Shift Restoration,” dated January 10, 2019, annexed as Exhibit “WWW;”
- XXXX. Email, “Fw: Request for a Reasonable Accommodation,” dated July 12, 2019, annexed as Exhibit “XXXX”

- YYYY. Email thread, “RE: Kay description of job duties, reasonable accommodation,” dated July 17, 2019; Email thread, “RE: Request for a Reasonable Accommodation,” dated August 20, 2019; and Email thread, “RE: Request for a Reasonable Accommodation,” dated October 8, 2019, annexed as Exhibit “YYYY;”
- ZZZZ. Email, “Grant of Reasonable Accommodation,” dated October 23, 2019, annexed as Exhibit “ZZZZ;”
- AAAAA. Email thread, “RE: DEDUCTION OF PAY NOTICE,” dated October 25-30, 2019 and Email thread, “RE: DEDUCTION OF PAY NOTICE,” dated November 8-12, 2019, annexed as Exhibit “AAAAA;”
- BBBBB. Email, “Referral,” dated March 20, 2019, annexed as Exhibit “BBBBB;”
- CCCCC. Confidential Investigatory Information, dated May 9, 2019, annexed as Exhibit “CCCCC;”
- DDDDD. Email, “FW: New Interdisciplinary and Revised Nursing Policies,” dated May 31, 2019, annexed as Exhibit “DDDDD;”
- EEEE. Memorandum, Re: Audio recording of 730 Competency Evaluations, dated May 29, 2019, from Dr. Ford to plaintiff, and Email thread, “Re: Follow-up,” between June 18, 2019 to June 21, 2019, annexed as Exhibit “EEEE;”

- FFFFF. Email thread, “CHS Phishing email physician credentialing failure to advise,” between March and May 2019, annexed as Exhibit “FFFFF;”
- GGGGG. Email thread, “FW: Assistance with Bronx,” dated May 31, 2019, annexed as Exhibit “GGGGG;”
- HHHHH. Email thread, “Re: Assistance with Bronx,” dated June 3-4, 2019, annexed as Exhibit “HHHHH;”
- IIIII. Email, “Workplace Conduct Memo,” dated June 6, 2019, and Email thread, “RE: Workplace Conduct Memo,” dated June 6, 2019, annexed as Exhibit “IIIII;”
- JJJJJ. Memorandum Re: Unprofessional Conduct and Communication, dated June 6, 2019, from Dr. Ford to plaintiff, annexed as Exhibit “JJJJJ;”
- KKKKK. Email thread, “Re: Follow-up,” between June 18, 2019 to June 21, 2019, annexed as Exhibit “KKKKK;”
- LLLLL. Email, “Fw: Notes,” dated October 2-3, 2018, annexed as Exhibit “LLLLL;”
- MMMMM. Email, “Fw: Bronx – my handwritten notes,” dated December 20, 2018, annexed as Exhibit “MMMMM;”
- NNNNN. Email correspondence, between Susannah Lewis and Drs. Jain and Kaye, dated April 3-5, 2018, annexed as Exhibit “NNNNN;”
- OOOOO. Email, dated April 24, 2018 from Dr. Kent to plaintiff, annexed as Exhibit “OOOOO;”

- PPPPP. Email, date April 24, 2018, from plaintiff to Drs. Jain and Winkler, annexed as Exhibit “PPPPP;”
- QQQQQ. Email, dated May 18, 2018, from Dr. Jain to Dr. Mullan and plaintiff, annexed as Exhibit “QQQQQ;”
- RRRRR. Email, dated May 31, 2019, from Lucrecia Persaud to Andrea Swenson, annexed as Exhibit “RRRRR;”
- SSSSS. Email, “Bronx Psychologist Candidate,” dated June 11, 2018, annexed as Exhibit “SSSSS;”
- TTTTT. Email, dated September 19, 2019, from Dr. Yang to Jessica Laboy, et al., annexed as Exhibit “TTTTT;”
- UUUUU. Email, dated October 1, 2018, from Dr. Jain to plaintiff, annexed as Exhibit “UUUUU;”
- VVVVV. Email, dated November 1, 2019, from Dr. Brayton to plaintiff, Dr. Jain, and Lucrecia Persaud, annexed as Exhibit “VVVVV”
- WWWWW. Email thread, dated September 20, 2019, October 31, 2019, November 1-2, 4, 2019, entitled “What is plan for psychologist staffing in the Bronx?” between Drs. Ford, Jain, and Garcia-Mansilla, among others, email, dated October 31, 2019- November 12, 2019, from Dr. Jain to Wilma Soto and Kiesha Bailey, annexed as Exhibit “WWWWW;”
- XXXXX. January 7, 2020 letter to Board of Corrections, annexed as Exhibit “XXXXX;”

YYYYY. “Receipt for Retirement Application, annexed as Exhibit  
“YYYYY;”

ZZZZZ. Deposition of Melissa Kaye, dated February 3, 2022, annexed as  
Exhibit “ZZZZZ.”

I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: New York, New York  
March 4, 2022

HON. SYLVIA O. HINDS-RADIX  
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By: ECF /s/  
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